



NEWARK BOARD OF EDUCATION
Newark, New Jersey 07102
POLICY

File Code: 2224

AFFIRMATIVE ACTION

The Board is committed to equal employment/contract practices and educational opportunities.

Toward this end, the Board guarantees to all persons equal access to all categories and conditions of employment/contracts, retention and advancement regardless of race, color, age, creed, religion, gender, national origin, political affiliation, marital status, or nonapplicable handicap.

Further, the Board provides equal educational opportunity to students regardless of race, color, creed, religion, gender, ancestry, national origin, political affiliation, marital status, or nonapplicable handicap.

To make certain equal employment and education opportunities are afforded district staff and pupils, this Affirmative Action Policy shall be a part of every aspect of employment, including but not limited to: upgrading, demotion or transfer, rates of pay or other forms of compensation including fringe benefits, employment selection or selection for training and apprenticeships, promotions, tenure and school and classroom practices.

The Office of Affirmative Action shall be responsible for planning, implementing and monitoring the district's affirmative action program with respect to employment, contracts, school and classroom practices.

NONDISCRIMINATION:

The Board prohibits discrimination in hiring, discharge, promotion, wages, benefits, training and other conditions of employment/contractual agreements solely on the basis of race, color, age, creed, religion, sex, ancestry, national origin, socio-economic standing, marital or parental status or nonapplicable handicap.

No pupil enrolled in district schools shall be excluded from participation in, denied the benefits of, or be subjected to discrimination in any educational program or activity conducted or sponsored by or on behalf of the Board solely on the basis of race, color, creed, religion, age, gender, ancestry, sexual affection or sexual orientation, national origin, place of residence, social or economic condition, marital or parental status, or nonapplicable handicap.



AFFIRMATIVE ACTION (continued)

Further, no person shall be excluded from participation in, or be denied the benefits of, or be subjected to discrimination under any program or activity conducted or sponsored by or on behalf of the Newark Board of Education solely because of race, color, creed, age, religion, sex, ancestry, national origin, socio-economic standing, marital or parental status, or nonapplicable handicap.

To insure compliance with Equality in Education Program, N.J.A.C. 6:4-1.1 to 6:4-1.10, the affirmative action officer shall detect any bias based on race, sex, religion, national origin, ancestry or culture. He/She shall ascertain that supplemental materials, singly or taken as a whole, fairly depict the contribution of both sexes, the various races, and ethnic groups toward the development of human society. When necessary, he/she shall make suggestions and recommendations to the Executive Superintendent on curriculum content.

SEXUAL HARASSMENT:

The Board shall maintain an educational environment that is free from sexual harassment for all students. Sexual harassing conduct in the workplace committed by Board employees is also prohibited.

Administrators, supervisors, and educators will make it clear to all students and staff that sexual harassment is prohibited in the workplace or educational setting. Specifically, no supervisory employee shall threaten or insinuate, either directly/indirectly or will adversely affect the employee's continued employment, evaluation, compensation, assignment or advancement. No supervisory employee shall promise or suggest, either directly or indirectly, that an employee's submission to sexual advances will result in an improvement in any term or condition of employment of an employee.

No Board employee shall threaten or insinuate, either directly or indirectly, that a vendor or potential vendor's refusal to submit to sexual advances will adversely affect his/her ability to secure a contract with the Board.

No educator shall threaten or insinuate, either directly or indirectly, that any student's refusal to submit to sexual advances will in any manner affect that student's grades, advancements, evaluations or status. No educator shall promise or suggest, whether directly or indirectly, that a student's submission to sexual advances will result in any gain in personal status.

AFFIRMATIVE ACTION (continued)**SEXUAL HARASSMENT** (continued)

If an alleged incident occurs, the affirmative action officer will receive all complaints and carry out a thorough investigation, protecting the rights of the person making the complaint and the alleged harasser.

It is the Board's policy to take corrective action when a complaint is brought to the attention of the Office of Affirmative Action. Therefore, findings of discrimination in the form of sexual harassment will result in appropriate disciplinary action including possible termination of employment.

The district disapproves of all acts or patterns of sexual harassment of students and employees and will not tolerate violations of the laws pertaining to such acts.

AMERICANS WITH DISABILITIES ACT (ADA)

The Board, in agreement and compliance with the Americans with Disabilities Act of 1990, prohibits disability discrimination against qualified individuals in procurement potential or recruitment, hiring, promotion, training, benefits, job assignments, termination and other employment related activities. Also prohibited:

- ♦ "retaliation against an applicant or employee for asserting his/her rights under the ADA";
- ♦ "discrimination against anyone who has an association or relationship with an individual with a known disability."

Further, in accordance with ADA guidelines and to the extent possible, the Board will, except where such action would result in a fundamental alteration or undue financial and administrative burden:

- ♦ "make reasonable accommodation" for employees with disabilities;
- ♦ include assessable design in new construction and alterations;
- ♦ maintain in "operable working condition," facilities and equipment for the disabled;

AFFIRMATIVE ACTION (continued)**AMERICANS WITH DISABILITIES ACT** (continued)

- ♦ provide auxiliary aids and services for "applicants," employees and "members of the public with disabilities."

The affirmative action officer will coordinate compliance in accordance with rules and regulations established by the ADA and he/she will prepare and submit to the Executive Superintendent for review and transmittal to the Board, the "district-wide self-evaluation" as outlined in the ADA Guidelines.

Date: January 25, 1994

Legal References:

N.J.S.A. AFFIRMATIVE ACTION

Title IX of the Education Amendments of 1972, 20, U.S.C.A. 1681

Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunity Act of 1972, 42 U.S.C.A., Section 200 et seq.

Section 504 of the Rehabilitation Act of 1990, effective July, 1992 et al.

The Americans with Disabilities Act of 1990, effective July 1992 et al.

Education for All Handicapped Children Act, 20 U.S.C.A., Sections 1401 et seq.

Executive Order 11246, as amended,

Equal Pay Act of 1963, as amended, U.S.C.A., Section 201

<u>N.J.S.A.</u>	10:5-1	<u>et seq.</u> Law Against Discrimination
<u>N.J.S.A.</u>	18A:6-5	Inquiry as to religion and religious test prohibited
<u>N.J.S.A.</u>	18A:18A-17	Facilities for handicapped persons

AFFIRMATIVE ACTION (continued)

<u>N.J.S.A.</u>	18A:56-16	Rules
<u>N.J.A.C.</u>	6:4 <u>et al.</u>	Equality in Education Programs
<u>N.J.A.C.</u>	6:8-6.2(b)	Evaluation and certification (affirmative action element)

N.J.S.A. 10:5 Law Against Discrimination

See particularly:

N.J.S.A. 10:5-3, -4.1, -27

N.J.S.A. 18A:6-5, -6 Inquiry as to religion and religious tests prohibited

N.J.S.A. 18A:18A-17 Facilities for handicapped persons

N.J.S.A. 18A:26-1, -1.1 Citizenship of teachers, etc...

N.J.S.A. 18A:29-2 Equality of compensation for male and female teachers

N.J.S.A. 6:4-1.3, -1.6

N.J.S.A. 6:8-4.10(a):(1)

Ch. 52 P.L. 1990, Sec. 27 Quality Education Act

Executive Order 11246 as amended

Equal Pay Act of 1963 as amended, 29 U.S.C.A. 201

Title IX of the Education Amendments of 1972, 20 U.S.C.A. 1681

Title VII of the Civil Rights Act of 1964 as amended by the Equal Employment Opportunities

Act of 1972, 42 U.S.C.A. 2000e et seq.

AFFIRMATIVE ACTION (continued)

Section 504 of the Rehabilitation Act of 1973, 29 U.S.C.A. 794 et seq.

Education of the Handicapped Act, 20 U.S.C.A. 1401 et seq.

Americans with Disabilities Act, 42 U.S.C.A. 12101 et seq.

Meritor Savings Bank V. Vinson, 106 S. Ct. 2399 (1986)

School Board of Nassau County V. Airline, 107 S. Ct. 1123 (1987)

Vinson V. Superior Court of Alameda County, 740 P.2d 404 (Cal. Sup. Ct. 1987)

Manual for the Evaluation of Local School Districts (P.T.M. No. 700.7, revised July 1988)

Cross Reference:

- | | |
|-----------|--------------------------------------|
| 3320 | Purchasing Procedures |
| 4111 | Recruitment Selection and Hiring |
| 4131/4231 | Staff Development |
| 4111 | Recruitment, selection and hiring |
| 4112.8 | Nepotism |
| 4131/4231 | Staff Developement |
| 5145.4 | Equal educational opportunity |
| 6121 | Nondiscrimination/affirmative action |



REGULATION

AFFIRMATIVE ACTION

Purpose:

- ♦ To comply with the Equality in Education Program, N.J.A.C. 6:4-1.1 to 6:4-1.10.
- ♦ To ensure an environment for learning and work which permits students and employees the opportunity to pursue an education and a career in which they can progress on their merit and ability, without regard to race, color, creed, religion, gender, ancestry, national origin, social/economic status, nonapplicable handicap, age or sexual orientation.
- ♦ To ensure equal access to vendors seeking business with the Board, without regard to race, color, creed, religion, gender, ancestry, national origin, social/economic status, nonapplicable handicap, age or sexual orientation.

Responsible Person(s):

Affirmative Action Officer

Procedures:

1. The affirmative action officer or his/her designee shall:
 - A. monitor the Board's compliance with the Affirmative Action Policy and applicable federal/state laws to determine the effectiveness of the affirmative action plans;
 - B. report annually, findings and any recommendations regarding affirmative action to the Executive Superintendent and the Board;
 - C. coordinate, to the extent permissible by law, minority business compliance activities with its timetable for assessing the Board's attainment of its goals for the set-aside programs established, or to be established, for small businesses, female businesses and minority businesses;



- D. Review employment/contract practices for compliance with applicable state and federal laws and the district's policies. Prepare reports for and make recommendations to the Executive Superintendent.
2. The Executive Superintendent or his/her designee shall review the procedures established by the Office of Affirmative Action and correct any deficiencies in the implementation of the affirmative action plans.
3. The Board will make available to the community members the annual report or a summary thereof prepared by the Office of Affirmative Action.



REGULATION

AFFIRMATIVE ACTION/NONDISCRIMINATION

Purpose:

- To comply with Title IX of the Equal Education Act and all applicable state laws.
- To ensure an environment for learning and work which permits students and employees the opportunity to pursue an education and a career in which they can progress on their merit and ability, without regard to race, color, creed, religion, gender, ancestry, national origin, social/economic status, nonapplicable handicap, age or sexual orientation.
- To establish a uniform procedure for addressing alleged acts of discrimination and/or sexual harassment identified by the Board.
- To outline the Board's position on reprisal, right to alternative complaint procedures and discipline.

Responsible Person(s):

Affirmative Action Officer

Procedures:

1. The Board disapproves of all acts or patterns of discrimination against students and employees and will not tolerate violations of the laws pertaining to such acts. Therefore, the Board will take corrective action when a complaint is brought to the attention of the affirmative action officer. The method established for filing a complaint is as follows:
 - A. Any person, student or staff member who feels that he/she has been discriminated against, should file a written grievance (complaint) containing the information listed below:



- (1) The name, address and telephone number of the complainant (**the party making the complaint**);
 - (2) Description of alleged violation(s), procedures or practices;
 - (3) Date(s) on which alleged violation(s) took place;
 - (4) Name(s) of any person(s) responsible for the alleged action, if available;
 - (5) If available, written documentation of evidence/witnesses that is relevant to the grievance.
2. The affirmative action officer shall investigate all such allegations via the steps of the **Grievance Procedure**:

Step I

The grievant puts the grievance in writing and presents it to the building affirmative action officer (B.A.A.O.). Should the B.A.A.O. be unavailable or unsuitable for whatever reason the grievant may proceed directly to the district affirmative action officer. Every effort will be made to resolve the grievance informally at Step I.

Step II

If no satisfactory resolution of the grievance has been reached after five (5) working days from the date of receipt of the grievance, it will be forwarded to the district affirmative action officer.

Within five (5) working days, the district affirmative action officer will conduct a conference with the parties involved in the grievance, rendering a written decision within five (5) working days of the conference.

Step III

If no satisfactory solution has been reached within five (5) working days of the date of the conference, the grievance is sent to the Executive Superintendent or his/her designee.

Within five (5) working days, the Executive Superintendent or his/her designee will conduct a conference with the parties involved in the grievance. A written decision will be rendered within five (5) working days of the conference.

3. REPRISAL

The district will discipline any individual who retaliates against any person who reports alleged sexual harassment or discrimination or who retaliates against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint. Retaliation includes, but is not limited to, forms of intimidation, reprisal or harassment. All complaints are confidential.

4. RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES

These procedures do not deny the right of any individual to pursue other avenues of relief. An individual may file charges with the Equal Employment Opportunity Commission or the New Jersey Office of Civil Rights, initiating civil action or redress under state criminal statutes and/or federal law.

5. DISCIPLINE

Any action taken by the Board will be consistent with requirements of all applicable collective bargaining agreements, district policies, state and federal statutes. The Board may take any disciplinary action it finds necessary and appropriate, including warning, suspension or immediate discharge, to prevent discrimination and/or its recurrence.

6. The affirmative action officer or his/her designee shall serve as a member of the curriculum committees. In this capacity he/she shall review new instructional material and make recommendations.

NOTE: The affirmative action officer or his/her designee will recommend for consideration those instructional materials that promote understanding and mutual respect between children of different genders, ages, religions, ethnic and socioeconomic backgrounds, etc.



REGULATION

AFFIRMATIVE ACTION/SEXUAL HARASSMENT

Purpose:

- ♦ To comply with Title VII of the Civil Rights Act of 1964, as amended by the Equal Employment Opportunities Act of 1972, the provisions of Title IX of the Education Amendments of 1972, N.J.A.C. 6:4, et al.
- ♦ To ensure an environment for learning and work which permits students and employees the opportunity to pursue an education and a career in which they can progress on their merit and ability, without regard to race, color, creed, religion, gender, ancestry, national origin, social/economic status, nonapplicable handicap, age or sexual orientation.
- ♦ To establish a uniform procedure for addressing alleged acts of sexual harassment identified in the school district.
- ♦ To outline the district's position on reprisal, right to alternative complaint procedures and discipline.

Responsible Person(s):

Affirmative Action Officer

Procedures:

1. The Board disapproves of all acts or patterns of sexual harassment of students and employees and will not tolerate violations of the laws pertaining to such acts. Therefore, the Board will take corrective action when a complaint is brought to the attention of the affirmative action officer. The method established for filing a complaint is as follows:
 - A. Any person, student or staff member who feels that he/she has been sexually harassed should file a written grievance (complaint) containing the following information:



- (1) The name, address and telephone number of the complainant.
- (2) Description of alleged violation(s), procedure or practices.
- (3) Date(s) on which alleged violation(s) took place.
- (4) Name(s) of any person(s) responsible for the alleged action, if available.
- (5) If available, written documentation of evidence/witnesses relevant to the grievance.

2. The affirmative action officer shall investigate all such allegations via the steps of the **Grievance Procedure**:

Step I

The grievant puts the grievance in writing and presents it to the building affirmative action officer (B.A.A.O.) Should the B.A.A.O. be unavailable or unsuitable for whatever reason the grievant may proceed directly to the district affirmative action officer. Every effort will be made to resolve the grievance informally at Step I.

Step II

If no satisfactory resolution of the grievance has been reached after five (5) working days from the date of receipt of the grievance, it will be forwarded to the district affirmative action officer.

Within five (5) working days, the district affirmative action officer will conduct a conference with the parties involved in the grievance, rendering a written decision within five (5) working days of the conference

Step III

If no satisfactory solution has been reached within five (5) working days of the date of the conference, the grievance is sent to the Executive Superintendent or his/her designee.

Within five (5) working days, the Executive Superintendent or his/her designee will conduct a conference with the parties involved in the grievance. A written decision will be rendered within five (5) working days of the conference.

3. **REPRISAL**

The district will discipline any individual who retaliates against any person who reports alleged sexual harassment or discrimination or who retaliates against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint. Retaliation includes, but is not limited to, forms of intimidation, reprisal or harassment. All complaints are confidential.

4. **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of relief. An individual may file charges with the Equal Employment Opportunity Commission or the New Jersey Office of Civil Rights, initiating civil action or redress under state criminal statutes and/or federal law.

5. **DISCIPLINE**

Any action taken by the Board will be consistent with requirements of all applicable collective bargaining agreements, district policies, state and federal statutes. The Board may take any disciplinary action it finds necessary and appropriate, including warning, suspension or immediate discharge, to prevent sexual harassment and/or its recurrence.



REGULATION

AMERICANS WITH DISABILITIES ACT (ADA)

Purpose:

- ♦ To comply with the "Americans with Disabilities Act" of 1990.
- ♦ To insure that all qualified employees and potential employees have equal access and opportunities without regard to disability.
- ♦ To establish a uniform procedure for addressing alleged acts of disability discrimination in the Newark school district.

Responsible Person(s):

Affirmative Action Officer or his/her designee

Procedures:

1. The Board disapproves of all acts or patterns of disability discrimination and will not tolerate violations of the laws pertaining to such acts. Therefore, the Board will take corrective action when a complaint is brought to the attention of the affirmative action officer. The method established for filing a complaint is as follows:
 - A. Any person who feels that he/she has been a victim of disability discrimination should file a written grievance (complaint) containing the following information:
 - (1) The name, address and telephone number of the complainant;
 - (2) Description of alleged violation(s), procedure or practices;
 - (3) Date(s) on which alleged violation(s) took place;



- (4) Name(s) of any person(s) responsible for the alleged action, if available;
- (5) If available, written documentation of evidence/witnesses relevant to the grievance.

2. The affirmative action officer shall investigate all such allegations via the steps of the **Grievance Procedure**:

Step I

The grievant puts the grievance in writing and presents it to the building affirmative action officer (B.A.A.O.). Should the B.A.A.O. be unavailable or unsuitable for whatever reason the grievant may proceed directly to the district affirmative action officer. Every effort will be made to resolve the grievance informally at Step I.

Step II

If no satisfactory resolution of the grievance has been reached after five (5) working days from the date of receipt of the grievance, it will be forwarded to the district affirmative action officer.

Within five (5) working days, the district affirmative action officer will conduct a conference with the parties involved in the grievance, rendering a written decision within five (5) working days of the conference.

Step III

If no satisfactory solution has been reached within five (5) working days of the date of the conference, the grievance is sent to the Executive Superintendent or his/her designee.

Within five (5) working days, the Executive Superintendent or his/her designee will conduct a conference with the parties involved in the grievance. A written decision will be rendered within five (5) working days of the conference.

3. **REPRISAL**

The district will discipline any individual who retaliates against any person who reports alleged disability discrimination or who retaliates against any person who testifies, assists or participates in an investigation, proceeding or hearing relating to a sexual harassment complaint.

Retaliation includes, but is not limited to, forms of intimidation, reprisal or harassment. All complaints are confidential.

4. **RIGHT TO ALTERNATIVE COMPLAINT PROCEDURES**

These procedures do not deny the right of any individual to pursue other avenues of relief. An individual who believes he/she is a victim of disability discrimination may file charges with the:

- . Equal Employment Opportunities Commission
- . Department of Justice
- . Department of Labor
- . Civil Rights Division
- . Office of ADA
- . Federal Communications Commission
- . Department of Treasury

In addition, any grievant may initiate civil action or redress under applicable state criminal statutes and/or federal law.

5. **DISCIPLINE**

Any action taken by the Board will be consistent with requirements of all applicable collective bargaining agreements, district policies, state and federal statutes.

The Board may take any disciplinary action it finds necessary and appropriate, including warning, suspension or immediate discharge, to prevent age discrimination and/or its recurrence.

Date: 2/15/94